IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 29TH OCTOBER 2007 / 7TH KARTHIKA 1929

CRP.No. 862 of 2006(I)

AGAINST THE ORDER DATED 18/03/2006 IN OPEA.742/2002 of ADDL.D.C. ,ALAPPUZHA.

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REVN. PETITIONER: 1ST RESPONDENT

POWER GRID CORPORATION OF INDIA LTD.,
LOCAL OFFICE,NAGIARKULANGARA,
KAYAMKULAM, REP. BY ITS MANAGER.

BY ADV. SRI.K.P.DANDAPANI (SR.)

RESPONDENT: PETITIONER

SMT.GEETHA,D/O.VILASINI AMMA,
KIZHAKKEDATHU HOUSE,
NANGIARKULANGARA MURI,PALLIPPADU VILLAGE,
NOW RESIDING KOLLASSERRIL HOUSE,CHIRAYINKEEZHU MURI & VILLAGE REP. BY HER POWER OF ATTORNEY HOLDER BHASKARA PANICKER @ BHASKARAN CHANNAR,
KIZHAKKEDATHU HOUSE, NAGIARKULANGARA.

BY ADV. SRI.M.S.UNNIKRISHNAN
SMT.S.KARTHIKA
SRI.M.R.ANISON
SRI.T.R.RAJESH
SMT.K.P.GEETHA MANI
SMT.T.B.REMANI

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 29/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 862 OF 2006

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Dated this the 29th day of October, 2007.

O R D E R

This revision petition is preferred against the order of the Addl. District Judge, Alappuzha in OP(EA) 742/02. The Court below had passed an order whereby an amount of Rs.2,59,063/- with 9% interest only is ordered to be paid. A perusal of the award would reveal that the Court below had placed reliance on the Full Bench decision of this Court reported in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542).*** The Apex Court in the decision reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) had held that each and every case has to be analysed and decided on the facts and circumstances of that case. The Apex Court held as follows.

> "The situs of the land, the distance between the high voltage electricity line laid thereover, the extent of the line thereon as also the fact as to whether the high voltage line passes over a small track of land or through the middle of the land and other similar relevant factors in our opinion would be determinative. The value of the land

> would also be a relevant factor. The owner of the land furthermore, in a given situation may lose his substantive right to use the property for the purpose for which the same was meant to be used. So far as the compensation in relation to fruit bearing trees are concerned the same would also depend upon the facts and circumstances of each case."

So, in the light of the decision of the Apex Court and as the matter requires fresh consideration on the facts and circumstances of this case, the order under challenge is set aside and the Court below is directed to consider the matter afresh in the light of the above decision after permitting the parties to adduce evidence in support of their respective contentions. Parties are directed to appear before the Court below on 30.11.07.

The C.R.P. is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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